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Section 6(b)(5) of the Act provides that the rules of an exchange be designed, among other things, "to remove impediments to and perfect the mechanism of a free and open market and national market. . . ." The CSE states that "exchanges would be unable to experiment with innovative systems and procedures for the execution, clearance and settlement of exchange transactions unless they and those providing electronic trading services on their behalf are protected against losses which might be incurred by users of exchange facilities as a result of their use of such systems and services." Further, the CSE notes that, "by facilitating the [CSE's] experimental trading system's continued operation, [Rule 9D3(i)] should foster fair competition among brokers, among dealers and among exchange markets, as contemplated by Section 11A(a)(1)(C)(ii) of the Act."

The Commission believes that facilities such as the MDTs will be useful in the development of a national market system³ and, in circumstances such as set forth by the CSE, that it is consistent with the purposes of the Act for a self-regulatory organization to limit its liability with respect to the use of such facilities. The Commission notes that the adoption of CSE Rule 9D3(i) and the existence of similar rules on other exchanges leave unaffected existing law concerning the potential liability of the CSE for willful misconduct in the operation of the exchange facilities and do not diminish in any way the responsibilities of the exchanges to regulate the operation and use of such facilities in compliance with the Act, rules thereunder or applicable rules of the respective exchanges.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirement of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that a third party is about to undertake to provide essential electronic services for the MDTs and it has been represented to the Commission that it would not be possible for this undertaking to occur unless the liability of the CSE and those providing services in its behalf

can be limited in the manner proposed. Further, it appears necessary that this rule proposal be approved without previous opportunity for comment in order to assure the continuous operation of CSE's MDTs since, without provision of these electronic services by a third party, the CSE would not otherwise be able to obtain those services after the pending merger of Weeden and Co. (which currently provides such services) with Mosely, Hallgarten and Estabrook, Inc. In addition, as noted above, the adoption of rules which limit an exchange's liability in a manner similar to that proposed here by the CSE does not present the Commission with any issues which have not been reviewed in the recent past. In this regard, it is noted that the Commission in July, 1978 approved a similar rule proposal of the Chicago Board Options Exchange, Inc. which was designed to facilitate implementation of its Order Support System.⁴

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

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[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 11—Notice 21]

EMERGENCY ORDER LIMITING MOVEMENT OF HAZARDOUS MATERIALS

On February 7, 1979, the Federal Railroad Administration (FRA) issued Emergency Order No. 11 placing certain limitations on the movement of railroad freight cars containing materials required to be placarded in accordance with DOT regulations, 49 CFR Parts 170-189 (placarded hazardous materials cars), by the Louisville and Nashville Railroad Company (L&N), and by other railroads over L&N owned or leased track (44 FR 8402).

As discussed at length in Emergency Order No. 11, one of the factors identified by FRA that has led, or contributed, to train derailments in the past and which is inadequately dealt with the L&N is the manner in which empty TOFC (trailer on flatcar)/COFC (container on flatcar) flatcars and empty long cars are placed in a train. Consequently, paragraph 5 of that Order imposed certain restric-

tions upon the placement of such cars in trains transporting placarded hazardous materials cars over L&N owned or leased track. These restrictions were not, nor could they be, comprehensive. That paragraph was also intended to call the L&N's attention to the safety hazards created by various placements of such empty cars within a train and in relation to other cars within a train, with the expectation that the L&N would give greater attention to these factors in its train operations.

Upon further serious consideration of this matter, FRA has become convinced that the purpose of paragraph 5, the minimization of the safety hazards created by the placement of cars in trains hauling placarded hazardous materials cars over L&N owned or leased track, would be best achieved by requiring the L&N to address this problem comprehensively and to propose measures best suited to its terrain and operating environment. Consequently, this notice rewrites paragraph 5 to require the L&N to prepare and transmit to FRA a detailed report describing procedures to minimize derailments of trains hauling hazardous materials caused by the unsafe placement of empty or other cars. Therefore, paragraph 5 of Emergency Order No. 11 is amended, effective upon issuance of this notice, to read as follows:

"5. The Vice President-Operations of the L&N shall prepare and transmit to FRA's Associate Administrator for Safety, not later than thirty (30) calendar days after the effective date of this notice, a written report addressing the safe placement of empty TOFC (trailer on flatcar)/COFC (container on flatcar) flatcars, empty long railroad freight cars, and other cars in trains transporting placarded hazardous materials cars over track owned or leased by the L&N. This report shall address the following factors:

- (a) grade and curvature of the track over which such trains move;
- (b) tonnage, load placement, and location of power in such trains;
- (c) long car to short car couplings;
- (d) train handling, including the impact of dynamic and power brakes;
- (e) empty long cars, other than empty TOFC/COFC flatcars, that should be subject to placement restrictions; and
- (f) any other relevant factors."

Issued in Washington, D.C., on February 16, 1979.

JOHN M. SULLIVAN,
Administrator.

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³See Securities Exchange Act Release No. 15413 (December 15, 1978).

⁴See Securities Exchange Act Release No. 14982 (July 20, 1978).